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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,056	02/04/2004	David R. Sharp	4518 P	5476
27472	7590	08/25/2006	EXAMINER	
RANDALL B. BATEMAN BATEMAN IP LAW GROUP 8 EAST BROADWAY, SUITE 550 PO BOX 1319 SALT LAKE CITY, UT 84110			DAVIS, CASSANDRA HOPE	
		ART UNIT		PAPER NUMBER
		3611		
DATE MAILED: 08/25/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,056	SHARP, DAVID R.	
	Examiner	Art Unit	
	Cassandra Davis	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3,6-8,13 and 16-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 3,6-8,13 is/are allowed.
- 6) Claim(s) 16,18-20,22 and 26 is/are rejected.
- 7) Claim(s) 17,21 and 23-25 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 16, 18, 19, 20, 22, and 26 are rejected under 35 U.S.C. 103 as being unpatentable over Friedlaender, U. S. Patent 2,223,560 in view of Sherman, U. S. Patent 6,164,451. Friedlaender teaches a container for school supplies comprising a frame portion 15 including sidewalls 37, a back wall and lid 35 defining a cavity for holding items such as pencils or pens. The container also has a binder portion 27 with holes 39 to receive rings of a conventional binder. In addition, the container has dividers 16 within the frame portion for dividing cavity into sub-cavities to receive pencils or pens. See figure 2-4.

3. Friedlaender does not teach a transparent cover as recited in claims 16, 22 and 26 or a mounting structure as recited in claim 20.

4. Sherman teaches a cosmetic case comprising a frame member 150 with a plurality of cavities 154, binder portion 150a, and a transparent cover 160 hingedly attached to the frame 150 (column 5, lines 20-24). See figure 6. Within each cavity a magnetic member may be provided to detachably maintain the cosmetic items therein.

5. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the combination kit taught by Friedlaender with a transparent cover as taught by Sherman to provide a means to view the contents of the kit.

6. With respect to claim 20, it would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the sub-cavities taught by Friedlaender with magnetic member therein to provide a means to retains the pencils and pens mounted therein.

Allowable Subject Matter

7. Claims 3, 6-8, 13 are allowed.

8. Claims 17, 21, 23, 24, 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center

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(EBC) at 866-217-9197 (toll-free).



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
August 21, 2006